

PETITION FOR THE SURRENDER AND REGISTRATION OF ORIGINAL CERTIFICATE OF TITLE NO. 316 IN THE NAME OF CIRILO REYES, OF ORDER NO. 7925 OF THE CADASTRAL COURT DATED SEPTEMBER 30, 19...

G.R. No. 21311. August 10, 1967

Ponente: FERNANDO, J.

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FERNANDO, J.:

Appeal from an order of the lower court denying a petition under Section 112 of the Land Registration Act on the ground that it involves an issue which is contro-versial, there being no unanimity among the parties on the subject matter of the petition, but on the contrary, an adverse claim on the part of the registered owner to the land, which is the subject of the controversy.

The petition which was filed by Pelagia Puguid, now appellant, on June 7, 1962, alleged that sometime before the last world war, the Court of First Instance of Cagayan, sitting as Cadastral Court, in its Order No. 7925 of September 30, 1939, Cadastral Case No. 43, directed that upon the payment of the legal fees to issue six (6) Transfer Certificates of Titles, one of which for six (6) hectares should be in the name of petitioner Puguid and cancelling Original Certificate of Title No. 316 (Homestead Patent No. 8752), in the name of respondent Cirilo Reyes. It was further alleged that on September 15, 1953, respondent obtained a court order in an Administrative Case No. 544-A for the issuance of the owner's duplicate of Original Certificate of Title No. 316, the issuance of which by the Register of Deeds was asserted to be contrary to law. The prayer was for the surrender of such "duplicate owner's copy of Original Certificate of Title No. 316" either to petitioner or the Register of Deeds of Cagayan, who, it was likewise prayed, should be further required to register the aforesaid Order No. 7925 of the Cadastral Court as well as the cancellation of "all outstanding duplicate owner's copy of Original Certificate of Title No. 316." An opposition was filed by respondent on July 31, 1962, seeking the dismissal of the petition for patent lack of merit on the grounds of prescription, the nullity and lack of enforceability of Order No. 7925 of September 30, 1939, having been issued in excess of the powers and the jurisdiction of the court and the sale of portions of the land covered by Original Certificate of Title No. 316 in favor of innocent purchasers in good faith and for value. Then came on October 19, 1962, the order of the lower court dismissing the petition.

The lower court acted correctly. The dismissal was in accordance with the controlling doctrine dating from *Tanganan v. Republic*.^[1] As was there clearly set forth: "We are of the opinion that the lower court did not err in finding that it lacks jurisdiction to entertain the present petition for the simple reason that it involves a controversial issue which takes this case out of the scope of Section 112 of Act No. 496. While this section, among other things, authorizes a person in interest to ask the court for any erasure, alteration, or amendment of a certificate of title 'upon the ground that registered interests of any description, whether vested, contingent, expectant, or inchoate, have terminated and ceased', and apparently the petition comes under its scope, such relief can only be granted if there is unanimity among the parties, or there is no adverse claim or serious objection on the part of any party in interest; otherwise the case becomes controversial and should be threshed out in an

ordinary case or in the case where the incident properly belongs.”[2]

Barely four years later came the next opinion of importance reiterating and clarifying the above holding. Thus: "A review of all the decisions dealing with the application of Section 112 reveals that by 'unanimity among the parties' is meant the absence of serious controversy between the parties in interest as to the title of the party seeking relief under said section. * * *. 'On this score the movants are not devoid of reason for it has been held that relief under section 112 of Act No. 496 can only be granted if there is unanimity among the parties, or there is no adverse claim or serious objection on the part of any party in interest; otherwise, the case becomes controversial and should be threshed out in an ordinary case or in the case where the incident belongs.'"[3]

There was on March 24, 1960, a reaffirmation of the above view and a brief summary of the then current state of the law. "The court a quo acted correctly in denying, under the circumstances, the petition to cancel the annotation of the second mortgage at the back of the title covering the property originally owned by Eustaquio Palma. It has been consistently held by this Court, that the relief afforded by Section 112 of the Land Registration Act may only be allowed if 'there is a unanimity among the parties, or there is no adverse claim or serious objection on the part of any party in interest'; otherwise, the case becomes controversial and should be threshed out in an ordinary case. In another case, this Court has held that Section 112 authorizes, in our opinion, only 'alterations which do not impair rights recorded in the decree, or alterations which, if they do prejudice such rights, are consented to by all parties concerned or alterations to correct obvious mistakes'. This doctrine is but sound and proper. The proceedings provided in the Land Registration Act being summary in nature, they are inadequate for the litigation of issues properly pertaining to ordinary civil actions, thus, questions involving ownership of or title to a real property, or relating to the validity or cancellation or discharge of a mortgage should properly be ventilated in an ordinary proceeding.”[4]

As of the date then of the order of dismissal appealed from, on October 19, 1962, the conformity of what was done by the lower court with the controlling doctrine announced by this Court cannot be in doubt. Nor has there been a deviation from the above principle although in a 1963 opinion the competence of a lower court under Section 112 of Act No. 496 was upheld where "the objection to the petition is not serious enough" to make the case controversial,[5] and in a 1965 decision, where the certificate of title is clearly established in favor of the movant, the opposition not placing "in grave doubt the title over the registered property.”[6]

The controversy in this case being both serious and undeniable, the petition itself admitting that the respondent has in his favor "his duplicate owner's copy of Original Certificate of Title No. 316", the absence of the power to act by the lower court under Section 112 of the Land Registration Act is equally clear. What the lower court did then could not successfully be impugned.

WHEREFORE, the appealed order of dismissal of October 19, 1962 is hereby affirmed. With costs.

Reyes, J.B.L., Makalintal, Bengzon, Zaldivar, Sanchez, Castro, and Angeles, JJ., concur.
Concepcion, C.J., and Dizon, J., on official leave.

[1] 94Phil. 171, 174-175 (1953). Prior to this case, the requirement that there be no controversy did not appear to be inflexible (*Director of Lands v. Abisia* (1946) 76 Phil. 205; *Rebong v. Ibañez* (1947) 79 Phil. 324; *Floro v. Granada* (1949) 83 Phil. 487; *Republic v. Hospital de San Juan de Dios* (1949) 84 Phil. 820; *Sideco v. Aznar* (1953) 92 Phil. 982.)

[2] The Tangunan doctrine was subsequently followed or cited with approval in the following cases: *Enriquez v. Atienza* (1957) 100 Phil. 1072; *Bachoco v. Esperancilla*, 105 Phil. 404; *Angeles v. Razon*, 106 Phil. 384; *Antonio*

v. Rocamera, 106 Phil. 538; Rehabilitation Finance Corp. v. Alto Surety, 107 Phil. 386; Magdalena Estate v. Yuchengco, 108 Phil. 340; Republic of the Philippines v. Laperal, 108 Phil. 860; Asturias Sugar Central v. Segovia, 109 Phil. 383; Balanga v. Court of Appeals, 110 Phil. 1004; Floriza v. Court of Appeals, 58 Off. Gaz. (47), 687; Li Yao v. de Leon, L-14324, April 12, 1961; Jison v. Debuque, L-17687, Dec. 28, 1961; Gonzalo Puyat and Sons v. PNB, L-16843, April 30, 1962; Navera v. Quicho, L-18339, June 29, 1962; Abella v. Rodriguez, 62 Off. Gaz. (6) 858; Register of Deeds v. Hodges, L-18178, Jan. 31, 1963; Zabaljaurregui v. Luzon Surety Co. Inc. 62 Off. Gaz. (34) 6108; Almirañez v. Devera, L-19496, Feb. 27, 1965.

[3] Enriquez v. Atienza (1957) 100 Phil. 1072, 1077-1078.

[4] Rehabilitation Finance Corp. v. Alto Surety Ins. Co., Inc., 107 Phil. 386.

[5] Zabaljaurregui v. Luzon Surety Co., 62 Off. Gaz. (34) 1608.

[6] Almirañez et al., v. Devera, L-19496, Feb. 27, 1965.

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